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Arizona Corporation Commission

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 Attorneys for: Mesquite Power L.L.C.
 Applicant

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION OF)
 MESQUITE POWER LLC, OR THEIR)
 ASSIGNEE(S), IN CONFORMANCE WITH THE)
 REQUIREMENTS OF ARIZONA REVISED)
 STATUTES 40-360 ET SEQ., FOR A)
 CERTIFICATE OF ENVIRONMENTAL)
 COMPATIBILITY AUTHORIZING)
 CONSTRUCTION OF NATURAL GAS-FIRED,)
 COMBINED CYCLE GENERATING FACILITY)
 LOCATED SOUTH OF ELLIOT ROAD,)
 APPROXIMATELY 37 MILES WEST OF THE)
 PHOENIX METROPOLITAN AREA, NEAR)
 ARLINGTON IN MARICOPA COUNTY,)
 ARIZONA)

DOCKET NO. 1-00000S-00-0101
 (CASE NO. 101)

**MOTION TO DISMISS UNTIMELY
REQUEST FOR REVIEW**

Pursuant to R14-3-106 of the Commission's Rules of Practice and Procedure, Mesquite Power, L.L.C. ("Mesquite") hereby files this Motion to Dismiss the Request for Review of Siting Committee Decision filed by the Arizona Center for Law in the Public Interest ("Center") on October 30, 2000. In support of its Motion to Dismiss, Mesquite submits the following.

Statement of Facts

Center filed a Notice of Appearance in the above-captioned proceeding when it was before the Arizona Power Plant and Transmission Line Siting Committee ("Siting Committee"), and thus is a "party" within the context of the statutory scheme set forth at A.R.S. 40-360 et seq. and the above-captioned proceeding.

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1 On October 10, 2000 the Siting Committee rendered its written decision in the above-
2 captioned proceeding, granting a Certificate of Environmental Compatibility to Mesquite. On
3 October 30, 2000, twenty (20) days later, Center filed its Request for Review of the Siting
4 Committee's Decision and Certificate of Environmental Compatibility.
5

6 **Statement of Applicable Law**

7 A.R.S. 40-360.07(A) provides that

8 ". . . within fifteen days after the [Siting] committee has rendered its
9 written decision any party to a certification proceeding may request
10 a review of the committee's decision by the commission." [emphasis
11 added]

12 The aforesaid prescribed time period is jurisdictional in nature. That is, the Commission has
13 jurisdiction and authority to consider and rule only upon requests for review that are filed with it
14 within the fifteen (15) day period specified in the statute. It does not have jurisdiction and authority
15 to consider and rule upon a request for review which is filed at a later date. Nor, does it possess the
16 authority or discretion to extend the statutorily -prescribed deadline for filing such requests.
17

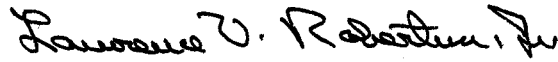
18 **Conclusion**

19 The Center's October 30, 2000 Request for Review of Siting Committee Decision was not
20 timely filed. The Commission does not have jurisdiction and authority to consider the matter and
21 the action therein requested by the Center.

22 WHEREFORE, Mesquite hereby requests that the Commission enter an order dismissing the
23 Request for Review of Siting Committee Decision filed by the Center on October 30, 2000 for the
24 reasons discussed above.
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1 DATED: November 7, 2000.

2 Respectfully Submitted,

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6 LAWRENCE V. ROBERTSON, JR.
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10 Attorneys for Mesquite Power, L.L.C.

11
12 The Original and Twenty-five (25) copies
13 of the foregoing Motion to Dismiss Untimely
14 Request for Review were filed
15 this 7 day of November, 2000 with the
16 Commission's Docket Control Center.

17 In addition, a copy of the same was mailed
18 this 7 day of November 2000, postage prepaid to:

19 Paul Bullis, Chairman
20 Arizona Siting Committee
21 c/o Office of the Attorney General
22 1275 West Washington
23 Phoenix, AZ 85007

24 Janice Alward
25 Teena Wolfe
26 ACC - Legal Division
27 1200 West Washington
28 Phoenix, Arizona 85007

29 Timothy M. Hogan
30 Arizona Center for Law In Public Interest
31 202 E. McDowell Ste 153
32 Phoenix, Arizona 85004-4533

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